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Supreme Court, U.S.
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NO_____

IN THE SUPREME COURT OF THE
UNITED STATES
OCTOBER TERM 1994

Rhonda W. Sharp, Petitioner

v.

Greg Sharp, Respondent
Edward Connelly, Respondent

# PETITION FOR DIRECT REVIEW TO THE STATE SUPREME COURT OF THE STATE OF WASHINGTON

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# PETITION FOR WRIT OF CERTIORARI

Rhonda W. Sharp
6614 130th Ave NE
G101
Kirkland, WA98033
206-889-2033

96PP

## QUESTIONS PRESENTED

Have the courts of the State of Washington exhibited invidious discrimination and sexism which violated Ms. Sharp's right to equal protection under the Fourteenth Amendment by denying Ms. Sharp the right of a pro se to be treated with fundamental fairness in her quest for adequate child support for her two children (Matthew Connelly Sharp DOB 6-25-87 , Jeff Sharp DOB 2-19-81) and in the removal and transfer of the custody of Jeff Sharp from Rhonda Sharp, his mother, to Greg Sharp, his father?

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APPENDIX I King County Superior Court Order, Entered February 5, 1992, Commissiner Velategui, State of Washington, Case #91-3-07409-1, Sharp V Sharp.

APPENDIX J King County Superior Court Order, Entered February 18, 1992, Commissioner Velategui, State of Washingotn, Case #91-3-07409-1, Sharp v Sharp.

APPENDIX K Ex Parte Restraining Order/Order to Show Cause, Entered January 31, 1992, Pierce County, State of Washington, Case #84-3-04740-1, Sharp v Sharp.

APPENDIX L Temporary Order, Entered February 13,1992, Pierce County, State of Washington, Case #84-3-04740-1, Sharp v Sharp.

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NO._____

IN THE SUPREME COURT OF THE UNITED STATES

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OCTOBER TERM, 1994

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Rhonda W. Sharp, Petitioner

vs.

Greg Sharp, Respondent
Edward Connelly, Respondent

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PETITION FOR WRIT OF CERTIORARI

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Petitioner, Rhonda W. Sharp, Pro Se, respectfully prays that a writ of certiorari issue to review the denial of direct review of the State of Washington Supreme Court of the opinions issued by Division I of the Appellate Court of the State of Washington. These two opinions: Sharp v Sharp Supreme Court No. 61748-1,(review denied October 5, 1994) and Sharp v Connelly Supreme Court No. 61934-4 (review denied December 7, 1994) denied Ms. Sharp the right to fundamental fairness as a pro se, thus violating Ms. Sharp's Fourteenth Amendment rights, *and* denied Ms. Sharp equitable treatment due to the discriminatory

treatment Ms. Sharp received as a woman before the courts of the State of Washington, also a violation of her Fourteenth Amendment rights, in her efforts to obtain adequate child support for her children and to retain the custody of her oldest son, Jeff Sharp.

## PARTIES TO THE PROCEEDING

Ms. Sharp lists the following as parties to the proceeding:
Greg Sharp, Father of Jeff Sharp, DOB 2-19-81
Edward Connelly, Father of Matthew Connelly Sharp, DOB, 6-15-87
Thomas Chillquist, Attorney for Greg Sharp
Jeff Barth and Michael Smith, Attorneys for Edward Connelly
Marilyn Singer, GAL for Jeff Sharp
John Chen Beckwith, Attorney for Rhonda W. Sharp, from 10-20-92 to 12-02-92

## OPINIONS BELOW

**Sharp V Sharp**:

The denial of Ms. Sharp's petition for direct review to the Supreme Court of the State of Washington,61748-1, appears as Appendix A, to this petition. The denial of the Appellate Court of the State of Washington, Divsion I, 30186-1, of Ms. Sharp's petition to uphold the ongoing jurisdiction of Ms. Sharp's ongoing litigation in King County is presented as Appendix B.

**Sharp V Connelly:**

The denial of Ms. Sharp's petition for direct review to the Supreme Court of the State of Washington, 61934-4, appears as Appendix C, to this petition. The withdrawal of the Appellate Court of the State of Washington, Division I, 30150-1, of the order entered on October 18, 1993 is presented as Appendix D. The supporting, opinion of the Court of Appeals Division I, 30150-I, is presented as Appendix E. The original order of the Court of Appeals, Division I, 30150-I, is presented as Appendix F.

## JURISDICTION

The Supreme Court of the State of Washington denial of review of Sharp v Sharp 61748-I was filed on October 5, 1994. The Supreme Court of the State of Washington denial of review of Sharp v Connelly 61934-4 was filed on December 7, 1994. Ms. Sharp joins these cases in presentation to this court under Rule 10 (6) Where two or more cases that involve identical or closely related questions are appealed from the same court, it will suffice to file a single jurisdicitonal statement covering all the issues. This court is the court of last resort as proceedings

have been terminated by the State Supreme Court of the State of Washington.

## CONSTITUTIONAL & STATUTORY PROVISIONS

Amendment XIV to the United States Constitution: Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the Un ited States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; *nor deny to any person within its jurisdiction the equal protection of the laws.*

## STATEMENT OF THE CASE

Ms. Sharp is a single mother to two children, Jeff Sharp DOB 2-19-81, a child from her marriage to Greg Sharp (Divorce granted 1985) and Matthew Connelly Sharp DOB 6-25-87, a child from her relationship with Edward Connelly. On March 7, 1991 Ms. Sharp had filed a motion for modification of child support citing Edward Connelly as respondent. On August 30, 1991 Ms. Sharp, acting pro se, filed a motion for modification of child support in King

County Superior Court, State of Washington citing Greg Sharp as Respondent.

Sharp V Connelly:

In the case of Sharp v Connelly, Mr. Connelly would not respond with the proper documentation, as required by Washington State Law, in order to allow the child support modification to go forward. Ms. Sharp, filed a motion for default which was granted on April 15, 1991 and then vacated with a sanction of $500 against Mr. Connelly on June 4, 1991. After a period of time with no documentation forthcoming from Mr. Connelly, Ms. Sharp again filed for default on September 9, 1991. Default was granted on September 23, 1991 and then vacated on October 9, 1991. Ms. Sharp moved for revision of the Commissioner's ruling vacating the default and Judge Pro Tem Murray McLeod denied the revision December 12, 1991 with the order denying revision presented on January 15, 1992. Judge Pro Tem Murray McLeod also fined Ms. Sharp $1000.00

Judge Pro Tem Murray McLeod had failed to grasp that a previous revision was the attorney for Mr. Connelly's revision. Mr. Smith, attorney for Edward Connelly, had moved to dismiss the case, and then filed a motion for revision. It was this motion for revision that Ms. Sharp tried to point out to Judge Murray McLeod. That is, Judge McLeod was fining Ms. Sharp for "abusing the system" in filing a previous revision which was not Ms. Sharp's, but

Mr. Smith's acting for Mr. Connelly, but which Judge McLeod erred in believing was Ms. Sharp's and thus accusing her of "abusing the system," and resulting in the $1000.00 fine.

Ms. Sharp argued to both the lower court and the appellate court that Mr. Connelly was allowed the kind of leniency that she, as a pro se, would not have been allowed, and that more than eight months had passed in which Mr. Connelly should have provided the requested information. Ms. Sharp was then forced into a trial without the statutorily required information from Mr. Connelly, and as she noted in her intial brief to the appellate court (CO #30150-1, :

Appendix G:

"On January 23, 1992, Ms. Sharp requested a continuance of trial date (CP 62). This request was based on the failure of Mr. Connelly to provide required financial information and notice to the court of Ms. Sharp's appeal. The request for continuance was denied. The order from Judge Don Haley (CP 73) is an extreme example of abuse of discretion and further supports the upholding of the motion for revision. This order denied Ms. Sharp daycare. It denied Ms. Sharp the right to appear before the court. It states that the Respondent provided the court with copies of his 1989 and 1990 income tax returns and yet these are nowhere entered into the court file. It lowered Ms. Sharp's

support to an amount which would have placed Mr. Connelly's income at around $1000.00 per month according to the child support schedule. It awarded federal income tax exemption to a father who has never seen his child and takes no part in his child's life. It disallowed Ms. Sharp wage withholding without further order of the court. It states that Respondents liability for child support is now at 45% of his net income without any substantiation."

Ms. Sharp further notes on the same page that "Obtaining child support simply cannot become a legal gauntlet which a mother must pass through in order to provide for her child."

Ms. Sharp filed an appeal in Division I, Court of Appeals, State of Washington on February 14, 1992, Appendix's C,D,E,F, provided to this court. As already noted in this brief, The Supreme Court of the State of Washington denied Ms. Sharp review on December 7, 1994.

Sharp V Sharp:

On August 30, 1991 Ms. Sharp filed a motion for modification of child support in King County Superior Court with Mr. Sharp as Respondent. On December 20, 1991 Judge Leroy McCullough heard the petition for modification of child support. Ignoring the tax returns which Ms. Sharp had subpoened, and which showed her

exhusband Mr. Sharp had substantial income he had not provided the court. Judge McCullough stated that he would accept the false tax returns as his basis for setting child support. In fact, the difference which Judge McCullough referred to differed in the following amounts. According to the 1988 returns which Mr. Sharp had provided Ms. Sharp, the tax returns showed an amount of $35, 826. 24 and the subpoened returns showed a 1988 income of $77, 276.12, a difference of $41, 449.88. For the 1989 returns, those provided Ms. Sharp by Mr. Sharp showed $45, 744.18 versus the subpoened returns by Ms. Sharp for Mr. Sharp of $89, 720.92, a difference of $43, 976.74. Ms. Sharp was incensed and acknowledges, as she did to Judge McCullough, Appendix H,her inappropriate response to the court at the rehearing of the child support matter on March 12, 1992. It was not until May 6, 1992 that Judge McCullough entered a new child support order placing Ms. Sharp's support for her son Jeff Sharp at $727.24.

Ms. Sharp upon leaving the hearing on December 20, 1992 took her son to his father's because of her temporary inability and distress over her inability to gain adequate child support and due to the fact that she had been laid off of her job and Mr. Sharp's delinquent child support payments. She filed a motion for contempt of court over the child support payments on January 27, 1992 in King County Superior Court. Prior to that filing she had orally informed Mr. Sharp of her intention to pick up her son,

and that in order for her to provide for Jeff, it was imperative for his payments to be made timely. This contempt order was heard by Commissioner Velaegui on February 5, 1992 and Ms. Sharp was denied the order and fined $200.00 for missing the required mailing time by one day, Appendix I. Ms. Sharp refiled as told to by Commissioner Velategui and that hearing was held on February 18, 1992 at which time Commissioner Velategui denied Ms. Sharp's request for contempt of court and request for the physical return of her son. He further referred all subsequent proceedings including child support to Pierce County, State of Washington, Appendix J. Significantly, Judge McCullough did not enter a final order of child support in King County, State of Washington, until May 6, 1992 after a rehearing on March 12, 1992 in which he raised Ms. Sharp's child support for Jeff Sharp to $727.24.

The reason Commissioner Velategui used to hold this ruling,Appendix J, was apparently based on Mr. Sharp and his attorney filing a petition for modification of custody in Pierce County on January 30, 1992 in what was clearly a retaliatory motion. Without notice to Ms. Sharp, Mr. Chillquist and Mr. Sharp obtained an ex parte restraining order, Appendix K, requiring Ms. Sharp to appear in Pierce County for a dependency hearing regarding the custody of Jeff Sharp. However, as the temporary order shows,Appendix L, no mention of the ongoing proceedings

in King County were brought to the courts attention in Pierce County, nor was there any mention of substantiated rationale to justify the violation of Ms. Sharp's Fourteenth Amendment rights with an ex parte restraining order. No motion for change of venue had been filed at any time by Mr. Chillquist, attorney for Mr. Sharp. Ms. Sharp noted to the court that Mr. Chillquist had violated the ethical principles of the Rules of Professional Conduct by failing to inform the tribunal of the ongoing proceedings in King County; that in fact, he had in failing to inform the Pierce County Court, falsified documentation in order to obtain the restraining order against Ms. Sharp. He further was fully aware of Ms. Sharp's intent to pick up her son, having been verbally notified of her intent to file a contempt of court against Mr. Sharp.

Ms. Sharp filed an appeal of Commissioner Velategui's order of February 18, 1992, Appendix J,in Division I, Court of Appeals, State of Washington on February 25, 1992, COA 30186-1, citing the retailiatory nature of the petition in Pierce County and the ongoing jurisdiction of King County which had possession of the case of Sharp v Sharp.

Due to the petition in Pierce County Ms. Sharp was forced to argue there, while continuously pointing out to both the lower and appellate courts, simultaneously Ms. Sharp was arguing against the jurisdictional intrusion in King County Superior Court, Pierce County Superior Court,

Division I and Division II Appellate Courts, that Pierce County was violating jurisdiction and venue. Over the next year, Ms. Sharp was subject to a complete violation of her civil rights based on the Fourteenth Amendment. Significantly, neither the ex parte restraining order, Appendix K, nor the temporary order signed by Commissiner Boyle, Pierce County, State of Washington, on February 13, 1992 , Appendix L, states any substantiated reason for Ms. Sharp's interrupted custody or provides any substantiated findings of fact for the change of custody to Greg Sharp.

Ms. Sharp appealed the ruling of Commissioner Boyle on the basis that it violated her due process rights under the Fourteenth Amendment, following a request to dismiss, and a request to revise, the February 13, 1992 ruling, Appendix L. But on July 2, 1992, Division II, Court of Appeals, State of Washington, denied Ms. Sharp discretionary review, COA#16079-0 and subsequently the Supreme Court State of Washington, denied Ms. Sharp discretionary review under CO#59440-6

At trial, beginning November 17, 1992 in Pierce County (also heard on November 18, 19, and then held over to December 1, and December 2, 1992) Ms. Sharp was represented by attorney John Beckwith, who represented Ms. Sharp without a retainer and with knowledge that Ms. Sharp was without the ability to pay him. However, Mr.

Beckwith came into the trial only for the actual days in court and Ms. Sharp wrote all briefs and subpoened all witnesses. Mr. Beckwith withdrew after closing arguments, on December 2, 1992, due to Ms. Sharp's inability to fund his legal services.

Judge Cohoe legally transfered custody of Jeff to Greg Sharp on January 29, 1993. Ms. Sharp appealed in Division II, Court of Appeals, State of Washington CO#60215-8. Ms. Sharp was forced to abandon this appeal due to her inability to afford the costs of the verbatim transcripts and clerks papers, she nonetheless incorporates herewith the file as substantiation of the violation of her Fourteenth Amendment rights.

The case of Sharp v Sharp State Supreme Court NO 61748-1 has been terminated by the State Supreme Court of Washington. Attorney for Mr. Sharp did not file a response to Ms. Sharp's request for direct review.

The case of Sharp v Connelly Supreme Court NO61934-4 has been terminated by the State Supreme Court of Washinton. Attorney for Mr. Connelly did not file a response to Ms. Sharp's request for direct review.

However, Ms. Sharp brings to this courts attention that Sharp V Sharp, 91-3-07409-1 was resurrected in King County Superior Court, State of Washington when Jeff

Sharp returned home of his own accord the 1st of May, 1994 due to a variety of problems at his fathers, Appendix M, and Ms. Sharp filed a petition for custody, obtained temporary custody with a trial to be held on May 8, 1995. (Significantly, Ms. Sharp had argued throughout that Mr. Sharp did not have the parenting skills to care for Jeff over a long period of time. )

## REASONS FOR GRANTING THE WRIT

Certiorari should be granted for the following reason. Ms. Sharp presents to this court an issue which,to her knowledge, it has not previously dealt with: the invidious sexism of the courts themselves in failing to address the unique position of women *who must litigate fathers into upholding their fiduciary responsibility* and the failure of the courts to treat pro se's in a manner in keeping with the concept of fundamental fairness, both issues of Fourteenth Amendment rights.

The position of women in this country, as this court noted in Kahn V Shevin 351 US (1974) supra has long been precarious due to the pervasive discrimination against women throughout this country's history. It is Ms. Sharp's contention that this pervasive discrimination stems from the judicial system itself to wit: The 1989 Study on Gender and Justice in the Courts, Appendix N (two pages provided

although the report is considerably longer) , states at A-16 that "Inadequate child support orders and lack of enforcement of those orders reinforce the cycle of poverty for women and children after divorce." And continuing on A-16 further states that Speakers throughout the state testified that it was their belief that women, in particular, were being denied equal access to the legal system because they lacked the money to pay for attorneys' fees."

In order to obtain adequate child support Ms. Sharp filed pro se child support modifications against the fathers of her children. (Respectively filed August 23, 1992, King County Superior Court, Mr. Sharp Respondent, and March 7, 1991, King County Superior Court, Mr. Connelly Respondent.)

As a pro se Ms. Sharp was diligent in adhering to the court rules to the best of her ability throughout proceedings. She spent extensive amounts of time in the law library, appeared timely, and noted that both of the father's of her children could afford an attorney and were financially solvent. The effect of her desire to provide for her children was treatment which Ms. Sharp contends was at best sexist, and at worst, designed to create a closed system by which a pro se is discouraged from entering the private playground of judges and attorneys. It is Ms. Sharp's position in petitioning this court that pro se's, and particularly women, are treated in a manner which

violates Fourteenth Amendment rights, and which is disparaging and designed to discourage pro se representation.

In the case of Mr. Connelly (Supreme Court NO 61934-4) Ms. Sharp was fined $1000.00 when pro tem Judge Murray McLeod inaccurately noted a previous move for revision as Ms. Sharp's. Appearing before Judge Haley, Ms. Sharp was denied the right to have a record of the courts actions by having a court reporter present. As she notes in her appeal (COA 30150-1) Mr. Barth, attorney for Mr. Connelly presented extensive documentation to the court which he had not provided to Ms. Sharp, and the court used this documentation to enter an order which denied Ms. Sharp adequate child support, allowed Mr. Connelly deduction which violated statue, and which was punative to Ms. Sharp due to the fact that Mr. Connelly provides no care or sustenance for Matthew beyond the court ordered child support.

Intially Division I, remanded agreeing with Ms. Sharp's arguments, this was then overturned, and Ms. Sharp petitioned the Washington State Supreme Court who denied her review.

In the case of Mr. Sharp (COA61748-1) Ms. Sharp had intially filed a support modification on August 29, 1992. This modification became heated as Ms. Sharp had been

laid off of her job and was also suffering due to Mr. Sharp failure to stay timely with the payment of his child support. Ms. Sharp admittedly lost her temper with the court when they denied the use of what were, by Mr. Sharp's own admission, a set of real tax returns which doubled his income and which Judge McCullough had intially refused to use stating that "Mr. Sharp says he didn't earn the money." It was this temporary loss of temper by Ms. Sharp, by which Mr. Chillquist, attorney for Mr. Sharp, went into Pierce County, bifurcating the jurisdiciton of the case by failing to inform Pierce County of the ongoing proceeding in King County, and obtaining an ex parte restraining order which subsequently subjected Ms. Sharp to unnecessary, vituperative, retaliatory, and collateral litigation. Because of her inability to fund an attorney, noted to the court repeatedly, Ms. Sharp litigated herself. She repeatedly brought to the court her seven years of uninterrrupted custody, the need of her children to be together, and the failure of the court in King County to uphold her jurisdiciton and the failure of the court in Pierce County to make any findings of fact regarding the violation of Ms. Sharp's custody of her son, Jeff Sharp.

When Ms. Sharp appealed Judge Cohoe's order transferring custody of her son Jeff Sharp to his father,State Supreme Court under cause NO 60215-8 which

she was forced to abandon due to her inability to afford the clerk's papers and verbatim transcripts, she did so on the basis that Judge Cohoe's ruling was explicitly discriminatory in ignoring her years of sole parenting of Jeff,her subsuming of her own career opportunities in order to care for her children, the presumption of custodial continuity, and Ms. Sharp's vulnerability as a pro se. She specifically cited to the State Supreme Court of the State of Washington the gender bias issues involved. Significantly, as Ms. Sharp notes, Judge Cohoe, asks Ms. Sharp as to whether "she wanted to do something with her life." Ms. Sharp, of course, thought she had been doing something with her life. It is Ms. Sharp's suggestion to this court, that the seriousness of inadequate child support, and the inability of women to access the court system finds its roots in an invidious sexism of the court system itself. If the court began with the presumption that the creation of a child requires the parties to cooperate in good faith in order to ensure the well being of that child, this litigation would have been unnecessary. Both Mr. Sharp and Mr. Connelly as Ms. Sharp notes in her briefs, *supra*, had stated to Ms. Sharp of their intent that their child be well cared for, and of their intent to participate to the benefit of their children's life.

However, Ms. Sharp maintains that the court system in failing to hold fathers to a *fiduciary responsibility*, has created a legalistic responsibilty in its stead. In reality,

the court system's sexism is rooted in its position that father's will only be expected to do what they are forced to do through the legalistic power of the courts. Since, women are disparately unable to access the court system, the court system thus becomes the perpetuator of women and children as an impoverished underclass.

Significantly, and as part of her argument regarding sexism to this court, Ms. Sharp argues that the court was fully aware of Ms. Sharp's full time child rearing responsibilities and yet failed to recognize this contribution as significant or as having any impact on her ability to advance her own career. (Judge Cohoe, however, in removing Ms. Sharp's son from her noted her as a "good, fit and loving mother who had made 'sacrifices' for her children." He then took custody of Jeff from her permanently. )

This court in Pollard V US 352 , (1956)held that:

We do not impose on persons unlearned in the law the same high standards of the legal art that we might place on the members of the legal profession.

The courts of the State of Washington *disregarded completely* Ms. Sharp's legal arguments which she contends were sound. Ms. Sharp asks this court to accept plenary review of this case.

As this court noted in Kulko V Superior Court 436 US. (1978):

This single act is surely not one that a reasonable parent would expect to result in the substantial fianancial burden and personal strain of litigation.

Surely the seven years of sole custodial care by Ms. Sharp should have alerted the courts of the State of Washington to the retaliatory proceedings of Mr. Sharp.

Surely this court can not hold that Ms. Sharp is trying to obtain adequate child support for her young son Matthew Sharp, should be find $1000.00 against a respondent who failed to come into court as required in a manner of fundamental fairness.

Ms. Sharp requests that this court, which rules so frequently on the issue of discrimination against women, turn the searchlight of justice upon its own mode of treating women. It is Ms. Sharp's contention that the court system which found that the court discriminated against men in using the "tender years doctrine" when approaching intial custody decisions, now has thrown the baby out with the bath water.

While women still provide the "lions share" of the care of children, and by virtue of biology-still give birth to the nation's children, they are nonetheless denied a recognition by the court sytem of that contribution of care, love, and concern which they so selflessly provide.

In failing to acknowledge this contribution, a contribution essential to the survival of the human species, and this nation, the court system requires that women somehow hold full time jobs and provide the care which society once believed to be a full time job, the job of mother. Unless and until our society creates a system which allows for the tender nurturing which women provide, women will continue to sacrifice themselves and their careers in order to provide for our children. It is Ms. Sharp's contention that this sacrifice should be shared by father's equally, and the failure of the court system to make it so, is clear evidence of sexism which continues the impoverishment of the children of the United States and the mothers who care for them.

## CONCLUSION

For the reasons set forth above, a writ of certiorari should issue to review the orders and opinions of the lower courts in this matter.

Dated January 3, 1995.

Respectfully submitted,

Rhonda W. Sharp

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# APPENDIX

The SUPREME COURT OF WASHINGTON,

IN re the Marriage of

| | |
|---|---|
| Rhonda W. Sharp, | NO. 61748-1 |
| Petitioner | ORDER |
| v | C/A NO. 30186-1-I |
| Greg Sharp, | (30832-7 consol. w/30186-1-I) |
| Respondent,_____ | |

This matter came before a Department of the Court on its October 5, 1994 Motion Calendar on Petition for Review. The Department having considered the Petition and the files herein, and the five members of the Department having unanimously agreed;

Now, therefore, it is hereby

ORDERED:

That the Petition for Review is denied

Dated at Olympia, Washington this 5th day of October, 1994

S

Chief Justice

Appendix A

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

| | |
|---|---|
| In Re the Marriage of: | No 30186-1-I |
| Rhonda W. Sharp | (Consolidated with |
| Appellant | Cause NO. 30832-7-I) |
| v | Commissioner's Ruling Granting Court's |
| Greg Sharp | Motion on the Merits |
| Respondent | To Affirm |

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Rhonda W. Sharp filed appeals from orders of the King County Superior Court. The appeals were consolidated for review. This court set a motion on the merits to affirm which was heard on January 28, 1994. After a complete review of the record and the arguments presented, the commissioner determines the motion on the merits should be granted.

FACTS

The marriage of Rhonda and Greg Sharp was ended by a Decree of Dissolution enterd in the Pierce County Superior Court in February 1985. Rhonda Sharp was awarded custody of the parties' minor child, Jeffrey. Greg Sharp was granted visitation and ordered to pay child support.

In August 1991, Rhonda filed a petition for modification of child support in the King County Superior Court. At that time, Rhonda and Jeffrey lived in Kirkland in King County.

Appendix B(1)

A trial by affidavit was held before King County Supeior Court Judge Leroy McCullough in December 1991. Judge McCullough announced his oral decision on December 20, 1991. Upon hearing the decision, Rhonda became upset:

MS. SHARP: I have a brief statement, Your Honor. When the courts decide that parenting is a full-time job, then I am going to be willing to be a parent. When this man can go and make outrageous amounts of money and come into this Court and show you nothing and have you believe it, then there is no point in being a parent. I did not marry and to have to support that child by myself. My marital contract said that I would have that income to support that child. I will not. I am telling you I will not be fully responsible and be given a pittance of $500 a month...
THE COURT: Ms. Sharp, you are out of order. I am sorry you are upset. You will have the opportunity to bring up what your concerns are.
MS. SHARP: It is not necessary. I am going to allow Mr. Sharp to be the parent. Thank you, Your Honor.

At that point, Ms. Sharp left the courtroom. Shortly thereafter, Ms. Sharp took Jeffrey to Greg's residence in Pierce County and left him there. Ms. Sharp subsequently sent Jeffrey's medical records so that Mr. Sharp could enroll him in school and wrote Jeffrey a letter which appears to contemplate his remaining with his father.

Greg Sharp subsequently filed a petition to modify custody in Pierce County Superior Court.

In February 1992, Ms. Sharp filed a motion for contempt in King County Superior Court based primarily upon alleged past due child support. She also requested Jeffrey's immediate return. A King County Superior Court Commissioner denied all motions and held that in view of the ongoing proceedings in Pierce County Superior Court, the issue of past due child support fo rthe month of January 1992 would be referred to the Pierce County proceedings. Ms. Sharp appealed this order.

In March 1992, Judge McCullough heard and ultimately denied Ms. Sharp's motion to reconsider the support modification order. Ms. Sharp filed an appeal from the decision on her support modification petition.

This court consolidated the two appeals. Ms. sharp has not briefed any issues arising from Judge McCullough's orders and, at oral argument before the commissioner, she stated that she was forced to withdraw those issues from consideration because she had been unable to brief the issues.

ISSUE

B(3)

Did the King County Superior Court err in deferring the issues of Jeffrey's custody and Mr. Sharp's possible contempt for failing to make the January 1992 child support payment to the Pierce County Superior Court?

CRITERIA FOR DETERMING WHETHER TO GRANT A MOTION ON THE MERITS TO AFFIRM

RAP 18.14(e)(1) provides:
A motion on the merits to affirm will be granted in whole or in part if the appeal or any part therof is determined to be clearly without merit. In making these determinations, the...commissioner will consider all relevant factors including whether the issues on reivew (a)are clearly controled by settled law, (b)are factual and supported by the evidence, or (c)are matters of judicial discretion and the decision was clearly within the discretion of the court.

In applying these criteria in light of State v Rolax,104 Wn. 2d 129, 702 p.2d 1185 (1985), the commissioner determines that the issue presented are clearly without merit.

DECISION

The issue before this court is a narrow one: was the child custody modification petition properly before the Pierce County supeior Court and, if so, did the King County trial court abuse its discretion in deferring to Pierce County?

The law provides for jurisdiction over petitions for modification of child custody, and/or support:

Every action or proceeding to change, modify, or enforce any final order, judgement, or decree entered in any dissolution...whether under this chapter or prior law, regarding the parenting plan or child support for the minor children of the marriage may be brought in the county where the minor children are then residing, or in the court i which the final order, judgement, or decree was entered,or in the county where the parent or other person who has the care, custody, or control of the children is then residing.

RCW26.09.280. Here, the original decree was entered in Pierce County Superior Court. Thus, under the statute, Pierce County has jurisdiction to hear Greg Sharp's custodymodification petition whether or not Jeffrey was still legally in Ms. Sharp's custody and wheterh or not Ms. Sharp voluntarily relinquished custody of Jeffrey. See White v White, 51 W#n 2d 652, 321 P.2d 262 (1958) (reaching same conclusion under earlier, less clear, version of statue).

The question remains whether the King County court erred by deferring to the Pierce County action.

Rhonda Sharp argues that the King County Superior Court had jurisdiction to decide all matters with regard to child support and custody and it was improper for a new action to be filed in Pierce County. Ms. Sharp implicitly refers to the "priority of action" rule which states:

the court which first gains jurisdiciton of a cause retains the exclusive authority to deal with the action until the controversy is resolved. The reason for the doctrine is that it tends to prevent unseemly, expensive, and dangerous conflicts of jurisdiction and of process.

City of Yakima v Int'l Ass'n of Firefighters, 117 Wn 2d 655, 675, 818 P2d 1076 (1991), quoting Sherwin v Arveson, 96 Wn 2d 77, 80, 633 P.2d, 1335 (1981).

The priority rule is:

generally applicable only when the cases involved are identical as to subject matter, parties and relief. This identity must be such that a final adjudication of the case by the court in which it first became pending would, as res judicata, be a bar to further proceedings in a court of concurrent jurisdiction.

American Mobiles Homes of Washington, INc. v Seattle-First Nat'l Bank,115 Wn 2d 307, 320, 796 P2d 1276 (1990), again quoting Sherwin v Arveson, supra.

Here, the matters pending before the King County superior court concerned child support matters, not child custody.

B(6)

The final ajudication of the child support matter did not become res judicata as to any issues of child custody, particulary those based upon al alleged substantial change of circumstances which occurred subsequent to the chld support trial. Thus, the priority rule did not constitute a bar to Pierce County's assuming jurisdiciton over Greg Sharp's petition for custody modification. When Ms. Sharp brought her motion for immediate return of Jeffrey, she was herself bringing the custody matter before a second superior court, the matter already having already been brought by Mr. Sharp before the Pierce County Superior Court.

While the King County Superior Court could have assumed jurisdiciton over the custody dispute and the related issue of the January support payment under RCW 26.09.280, it was not error for the court to refuse to do so. There is no bright line rule. American Mobile Homes of Washington, Inc v Seattle-First Nat' Bank, supra at 323. Here, the orginal dissolution occurred in Pierce County, Greg Sharp lived in Pierce County and, at the time the petition for modification of custody was filed, Jeffrey Sharp was living and attending school in Pierce County, arguably at his mother's intiative. The King County Superior Court acted within its authority in deferring to Pierce County. American Mobiles Homes of Washington Inc., supra; Perry v Perry, 31 Wn app 604, 608, 644 P.2d 142 (1982). See In re Marriage of Ieronimakis, 66 Wn App 83, 95, 831 p.2d 172,

review denied, 120 Wn 2d 1006, 838 P.2d 1142 (1992) (court has discretion to decline jurisdiction if other forum more convenient).

Ms. Sharp raises a number of issues regarding the difficulty of divorced mothers raising children with inadeuqte support, the role of economic necessity in her ill-judged decision to temporarily relinquish custody of Jeffrey and procedural irregularities allegedly committed by Greg Sharp and his attorney in Pierce County. These issues, however, are not dispositive of this appeal and any irregularties in Pierce County are not before this court.

Ms. Sharp makes no margument that the Pierce County Superior Court is any less capable than the King County Superior Court to resolve the issues between the parties, ie to determine Ms. Sharp's intent with regard to Jeffrey's custody and, ultimately, to determine whether a change of custody is in Jeffrey's best interests. Ms. Sharp's arguments assume that the decision to defer to Pierce County was a substantive one, substantially impacting her rights in this case. However, the question of venue oror convenient forum is merely procedural, not substantive. Sherwin v Arveson, supra at 84. Ms. Sharp has failed to demonstrate that the procedural decision of the King County Superior Court was made in error.

The issues raised by Ms. Sharp are clearly without merit under RAP 18.14 (e) (1). Accordingly, the court's motion on the merits is granted and the judgement of the trial court is affirmed. Now, therefore, it is hereby

ORDERED that the motion on the merits is granted and the judgement of the trial court is affirmed.

Done this 9th day of March, 1994.

S

Court Commissioner

B(9)

The SUPREME COURT OF WASHINGTON,

| | |
|---|---|
| Rhonda W. Sharp, | NO. 61934-4 |
| Petitioner | ORDER |
| v | C/A NO. 30150-1-I |
| Edward Connelly | |
| Respondent,_____ | |

This matter came before a Department II of the Court on its December 7, 1994, Motion Calendar on Petition for Review. Department II having considered the Petition and the files herein, and the five members of the Department having unanimously agreed;
Now, therefore, it is hereby

ORDERED:
That the Petition for Review is denied
Dated at Olympia, Washington this 7th day of December, 1994

S_____

Chief Justice

Appendix C

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

Rhonda W. Sharp,
Appellant

NO. 30150-1-I
ORDER GRANTING MOTION FOR RECONSIDERATION WITHDRAWING OPINION

v

Edward Connelly
Respondent,

Respondent Edward Connelly having filed a motion for reconsideration of the opinion filed October 198, 1993, and the appellant having filed a response to the motion, it is determined that the respondent's motion should be granted and the opinion withdrawn.

Now, therefore, it is hereby
Ordered that the motion for reconsideration is granted and the October 18, 1993 opinion is hereby withdrawn. Accordinaly, a substituted opinion will be filed.

Done this 24th day of January, 1994

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Appendix D

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

Rhonda W. Sharp, NO. 30150-1-I
Appellant
v
Edward Connelly FILED: JAN 24, 1994
Respondent,_____

PER CURIAM. Rhonda Sharp seeks review of a superior court order vacating a default judgement and imposing terms and the final order on her petition for modification of child support. A commissioner denied a court's motion on the merits and referred the case for accelerated review pursuant to RAP 18.12. We affirm.

FACTS

On June 25, 1987, Sharp gave birth to Matthew C. Sharp. At that time, Sharp was divorced and the custodial parent of another son, Jeffrey. Sharp brought a paternity action in Pierce County against respondent Edward Connelly, who was married and had two minor children. A decree of paternity was entered and, pursuant to the agreement of the parties, Connelly was ordered to pay child support of $315 per month plus $25 per month toward reducation of arrearages of $1,925. At that time, Connelly was found to have a net monthly income of $1,723 and Sharp was found to have income of $900. The decree included provisions for medical and dental insurance and life insurance. The

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decree provided for the exchange of income information at least every 2 years comencing May 1, 1991 and provided that "support shall be reviewable based on the parties' actual circumstances at the time of such review, and not based ona substantial change of circumstances."

On march 25, 1991, Sharp files a summons and petition for modification of child support in King County Superior Court. Sharp sought a retroactive increase in support, daycare expenses, and an increase in life insurance coverage. The form summons used by Sharp contianed the following language:

If you do not file and serve your written answer within 20 days (60 days if you are served outside of the State of Washington) after the date this summons was served on you, exclusive of the date of service, the court may, without further notice to you, enter a default judgement against you ordereing the relief requested in the petition. If you serve a notice of appearance on the undersigned person, you are entitled to notice before an order of default may be entered.

On April 2, 1991, Connelly filed a notice of appearnace in which he stated that Sharp also had filed a modification

petition in Pierce County u nder the original paternity action and that it had recently been dismissed.*(1)*

*(1)* On February 22, 1990, Sharp had filed a child support modification petition in Pierce County under the paternity action. A hearing was held on October 3, 1990, at which both Sharp and Connelly testified. It appears that at the end of the Pierce County hearing the court intended to impute $600 income to Sharp in addition to the $900 she earned for a total income of $1500. Connelly testified that his net income was $2300 and that his wife had filed for a legal separation. The court intnded to take into consideration Connelly's $900 child support payment for his other children, although it is not clear whether a court order had been entered. Connelly was not paying maintenance at that time. It appears that the trial court intneded to enter an order requiring Connelly to pay $581 total for child support and daycare. At the close of the hearing, the attorneys were to review the numbers, complete work sheets and return to court for entry of an order. Apparently this never occurred. The proceeding was dismissed by stipulation on January 2, 1991, without entry of findings or an order.

Connelly did not file a response to the petition. (2)

on April 5, 1991, Sharp filed and served a note for default on Connelly's counsel setting the hearing for April 15, 1991. Sharp appeared at the hearing, but neither Connelly not his counsel did. Commissioner Slusher entered an order of default. On the same date, Commissioner Rcihey entered an order modifying support. The order provided for increased child support, day care expenses and increased life insurance coverage.

On April 23, 1991, Connelly acquired an order to show cause why the default should not be vacated and the petiion for modification dismissed. He also filed a response to Sharp's modification petition on that date, objecting to the petition on the ground that it raised the saem issues as had recently been dismissed in the Pierce County proceedings. he attached completed child support work sheets, giving his gross income as $3000, his net as $2, 275 and his adjusted child support obligation to Matthew as $477.44.

*(2)*At about the same time, Connelly apparently filed a motion in the Pierce County litigation seeking an order restraining Sharp from proceeding with the support modification in King County. There is no indication in the record that the court ever ruled upon the motion. Sharp's pleadings indicate that the motion was denied or dismissed, as was Connelly's motion for revision of that order.

He did not attach a financial affidavit showing montly living expenses, tax returns or pay stubs. In his work sheets Connelly asked the court to deviate downward to $383 per month for matthew because he was under a court order to pay $900 per month child support to his other two children.

On June 4, 1991, Commissioner Slusher denied Connelly's motion to dismiss the petition, but vacated the April 15, 1991 order of default and order granting modification. He also ordered Connelly to pay $500 terms to Sharp for his failure to appear. Connelly moved for revision of this order, which was denied on July 26, 1991, by Presideing Judge Johnson. A written order reflecting this decision was not enterd until November 4, 1991.

Thereafter , Sharp moved again for default apparently on the ground that Connelly's response to the petition was inadequate because he had not submitted all the required information. This motion was first noted for Septemb er 9, 1991, but Sharp did not appear. Sharp renoted the motion for September 23, 1991, and faxed a calendar note to Connelly's counsel. Counsel informed Sharp that the motion was improper because Sharp did not provide proper service, did not provide ac opy of the underlying motion, and the prior decision was still subject to revision.

Neither Connolly nor his counsel appeared on September 23, 1991. Commisisoner Alumbaugh entered an order of default and an order modifying child support. Connelly was ordered to pay $750 child support and $320 for day care expenses.

Connelly moved to vacate the default judgement and sought terms of $1500. On October 9, 1991, Commissioner Alumbaugh granted the motion to vacate on the grounds that service of the motion was improper, a response and answer to the petition had been filed, and the matter was pending before the superior court on a motion for revision of a prior order. The commissioner did not impose terms against Sharp. Sharp's motion for reconsideration was denied on November 1, 1991.

Sharp moved for revision of the commissioner's order. On January 15, 1992, Pro Tem Judge McLeod denied Sharp's motion for revision. The court found that the order vacating the default was proper. The court also found that Sharp made false and misleading statements in obtaining the default judgement and ordered Sharp to pay $1000 terms. Sharp appeals this order.

On November 12, 1991, Connelly filed an amended response to the modification petition requesting a reduction of his child support obligation to $219.50 per month. The document refers to "amended financial information," but

none appears in the record. On November 13, 1991, Connelly noted the modification petition as ready for trial and acquired a trial date. Sharp responded with a motion for a continuance, asserting that the case was not ready for trial because she had not received the requried financial information from Connelly. Judge Johnson denied the motion for a continuance.

On February 7,1992, the modification petition was heard on affidavit before Judge Haley. The trial court denied Sharp's request for a court reporter, but the court considered Sharp's unsworn statements as testimony. Connelly provided the court with copies of his 1989 and 1990 income tax returns and asked the court to delete the social security number of his wife and children. The court ruled that the information was properly deleted and offered copies of the returns to Sharp. Sharp indicated to the court that she idd not want thm. The court found that there was good cause not to file the returns and found that the information on the returns supported Connelly's financial affidavit. The court entered findings of fat and conclusions of law and an order reducing support to $278, below the guideline amount. Connelly wasl also awarded the tax deduction for Matthew for 1992 and 1993, with the deduction to be alternated every year thereafter. Sharp was barred from filing any petition for modification for 2 years. Sharp also appeals this order.

DECISION

Sharp first contends that the default judgement was properly enterd and should not have been vacated because Connelly failed to timely provide the required financial information and disregarded the notice of default.

CR 55 provides in part:

(a) Entry of Default

(1) Motion. When a party against whoma judgement for affirmative relief is sought has failed to appear, plead, or otherwise defend as provided by these rules and that fact is made to appear by motion and affidavit, a motion for a default may be made.

(2) Pleading After Default. Any party may respond to any pleading or otherwise defend at any time before a motion for default and supporting affidavit is filed, whether the party previously has appeared or not. If the party has appeared before the motion is filed, he may respond to the pleading or otherwise defend at any time before the hearing on the motion. If the party has not appeared before the motion is filed he may not respond to the pleading not otherwise defend without leave of court. Any appearances for any purpose in this action shall be for all purposed under this rule 55.

(3) Notice. Any party who has appeared in the action for any purpose shll be served with a written notice of motion for defaul and the supportint affidavit at least 5 days before the hearing on the motion. Any party who has not appeared before the motion for default and supportin affidavit are filed is not entitled to a notice of the motion...

Sharp file her petition for modification on March 25, 1991. Connelly filed a timely notice of appearance on April 2, 1991, and a response on April 23, 1991. Thus, it is clear from the record that Connelly had filed a notice of appearance and a response, although incomplete, at the time the default judgement was entered on September 23, 1991. Connelly had not "failed to appear, plead or otherwise defend." CR 55 (a) (1). Accordingly, there was not basis for entry of a default judgement. See RCW 26. 18.220 (3). (3)Moreever, Sharp did not properly serve Connelly or his attorney with the notice of the motion for default CR 55 (a) (3). The superior court did not err in denying Sharp's motion for revision of the commissioner's decision vacating the default judgement.

(3)RCW 26.18.220 (3) provides: " A party's failure to use the mandatory forms or follow the format rules shall not be a reason to dismiss a case, refuse a filing, or strike a pleading. However the court may require the party to submit a corrected pleading and may impose terms payable to the opposing party or payable to the court, or both."

Sharp next contends that the court erred in ordering her to pay $1000 terms. Judge Mc Leod imposed the $1000 terms on the ground that Sharp had made false and misleading statements orally and in writing in procuring the default judgement.

The trial judge's finding that Sharp had made false and misleading statements in procuring the default is supported by the record. The order of default which Sharp presented to Commissioner Alumbaugh includes standard language that Connelly had "failed to appear, plead, or otehrwise defend the action." As noted above, this statement was not correct. At the time of the April 1991 default, Connelly had filed anotice of appearnce, but he had not filed a response to the petition. By the time of the September default hearing, Connelly had also filed a response to the petition. The trial court did not err in imposing $1000 terms against Sharp. *(4)*

*(4)* It was within the trial court's authority to impose terms even though Connelly did not seek revision of the commissioner's decision denying terms. All acts and proceedings of court commissioners are subject to revision by the superior court. RCW 2.24.050. The superior court's review is de novo on the record, and the court has full jurisdiction. State v. Charlie, 62 Wn. App. 729, 733, 815 P. 2d 819 (1991); In re B.S.S., 56 Wn. App 169, 171, 782 P.2d 1100 (1989), review denied, 114 Wn. 2d 1918 (1990)

Finally, Sharp contends that the trial court erred in entering the order modifying Connelly's child support obligation. Sharp appears to contend that the court erred in denying her a continuance of the trial date and forcing her to got to trial without the required financial information; in denying her request for a court reporter; in failing to require Connelly to contribut toward daycare expenses; in awarding Connelly the federal tax exemption for 2 years; in disallowing wage withholdingto cover Connelly's support obligation without a further court order; and in determing the amount of child support.

Sharp did not assign error to each of the challenged findings of fact and conclusions of law, as required by RAP 10.3 (g). Rhinehart v. Seattle Times, 59 Wn. App. 332, 336, 798 P. 2d 1155 (1990). The findings, therefore are vertieis on appeal. Tomlinson V. Clarke, 118, Wn 2d. 498, 501, 825 P. 2d 706 (1992).

Moreever, we cannot review the trial court's findings and conclusions because some of the evidence relied upon by the trial court, i.e., Sharp's unsworn statements and Connelly's 1989 and 1990 tax returns, was never made part of the record below.

A petition for modification of child support shall be heart by the court "on affidavits, the petition, answer and worksheets only." RCW 26.09.175 (5). "A party seeking

authority to present oral testimony on the peition to modify a support order shall file an appropriate motion not later tnan ten days after the time of notice of the hearing..." RCW 26.09.175 (6). on the order setting the trial date, the aprties were informed that under the local rules, the deadline for requesting oral testimony was December 18, 1991. Sharp never filed a motion requesting oral testimony. The trial judge considered Sharp's unsworn testimony only as an accommodation to Sharp and we are not persuaded that her testimony significatnly affected the trial court's ruling. Sharp's request on the day of trial for a court reporter was not timely. Sharp did not request to have Connelly's tax returns placed in the record at trial.

The party seeking review has the burden of perfecting the record so that the reviewing court has before it all of the evidence relevant to the issues raised on appeal. Starczewski v. Unigard Ins. Group, 61 Wn App. 267, 276, 810 P.2d 58, review denied, 117 Wn 2d,1017 (1991). Due to Sharp's failure to comply with applicable statutes and local rules, the record on appeal is inadequate to permit proper appellate review.

Both Connelly and Sharp seek attorney fees on appeal. Neither party is entitled to attorney fees on appeal.

Affirmed.

E (12)

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

Rhonda W. Sharp, NO. 30150-1-I
Appellant Division One
v
Edward Connelly,
Respondent Filed: October 18, 1993

Per Curiam. Rhonda Sharp seeks review of a superior court order vacating a default judgement and imposing terms and the final order on her petition for modification of child support. A commissioner denied a court's motion on the merits and referrd the case for accelerated review pursuant to RAP 18.12. We affirm the order vacating the default judgement and imposing terms and ereverse and remand the final order modifying child support.

FACTS

On June 25, 1987, Sharp gave birth to Matthew C. Sharp. At that time, Sharp was divorced and the custodial parent of another son, Jeffrey. Sharp brought a paternity action in Pierce County against respondent Edward Connelly, who was married and had two minor children. A decree of paternity was entered and, pursuant to the agreement of the parties, Connelly was ordered to pay child support of $315 per month plus $25 per month toward reduction of arrearages of $1,925. At that time, Connelly was found to have a net monthly income of $1,723 and Sharp was found

Appendix F (1)

to have income of $900. The decree included provisions for medica and dental insurance and life insurance. The decree provided for the exchange of income information at least every 2 years commencing May 1, 1991 and provided that "support shall be reviewable based on the parties' actual circumstances at the time of such review, and not based on a substantial change of cirumstances."

On March 25, 1991, Sharp filed a summons and petition for modification of child support in King County Superior Court. Sharp sought a retroactive increase in support, daycare expenses, and an increase in life insurance coverage. The form summons used by Sharp contained the following language:

If you do not file and serve your written answer within 20 days (60 days if you are served outside of the State of Washington) after the date this summons was served on you, exclusive of the date of service, the court may, without further notice to you, enter a default judgement against you ordering the relief requested in the peittion. If you serve a notice of appearance on the undersigned person, you are entitlted to notice before an order of default may be entered.

On April 2, 1991, Connelly filed a notice of appearance in which he stated that Sharp also had filed a modification

petition in Pierce County under the original paternity action and that it recently had been dismissed. *(1)*

*(1)* On February 22, 1990, Sharp had filed a child support modification petition in Pierce County under the paternity action. A hearing was held on October 3, 1990, at which both Sharp and Connelly testified. It appears that at the end fo the Pierce County hearing the court intended to impute $600 income to Sharp in addition to the $900 she earned for a total income of $1500. Connelly testified that his net income was $2300 and that his wife had filed for a legal separation. The court intended to take into consideration Connelly's $900 child support payment for this other children, although it is not clear whether a court order had been entered. Connelly was not paying maintenance at that time. It appears that the trial court intended

Connelly did not file a response to the petition. *(2)*

On April 5, 1991 Sharp filed and served a note for default on Connelly's counsel setting the hearing for April 15, 1991. Sharp appeared at the hearing, but neither Connelly nor his counsel did. Commissioner Slusher entered an order of default. On the same date, Commissioner Richey entered an order modifying support.

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*(1)* to enter an order requiring Connelly to pay $581 total for child support and daycare. At the close of the hearing, the attorneys were to review
the numbers, complete work sheets and return to court for entry of an order. apparently this never occurred. The proceeding was dismissed by stipulation on January 2, 1991, without entry of findings or an order.

*(2)* At about the same time, Connelly apparently filed a motion in the Pierce County litigation seeking an order restraining Sharp from proceeding with the support modification in King County. There is no indicaton in the record that the court ever ruled upon the motion. Sharp's pleadings indicate that the motion was denied or dismissed, as was Connelly's motion for revision of that order.

The order provided for increased child support, daycare expenses and increased life insurance coverage.

On April 23, 1991, Connelly acquired an order to show cause why the default should not be vacated and the petition for modifcation dismised. He also filed a response to Sharp's modification petition on that date, objecting to the petition on the ground that it raised the same issues as had recently been dismissed i the Pierce County proceedings. He attached completed child support work sheets, giving his gross income as $3000, his net as $2,275 and his adjusted child support obligation to Matthew as $477.44. He did not

attach a financial affidavit showing monthly living expenses, tax returns or pay stubs. In his work sheets Connelly asked the court to deviate downward to $383 per month for Matthew because he was under a court order to pay $900 per month chil support to his other two children.

On June 4, 1991 Commissioner Slusher denied Connelly's motion to dismiss the petition, but vacated the April 15, 1991 order of default and order granting modification. He also ordered Connelly to pay $500 terms to Sharp for his failure to appear. Connelly moved for revision of this order, which was denied on July 26, 1991 by Presiding Judge Johnson. A written order reflectin this decision was not entered until November 4, 1991.

Thereafter, Sharp moved again for default, apparently on the ground that Connelly's response to the petition was inadequate because he had not submitted all the required information. This motion was first noted for September 9, 1991, but Sharp did not appear. Sharp renoted the motion for September 23, 1991, and faxed a calendar note to Connelly's counsel. Counsel informed Sharp that the motion was improper because Sharp did not provide proper service, did not provide a copy of the underlying motion, and the prior decision was still subject to revision.

Neither Connolly nor his counsel appeared on September 23, 199. Commissioner Alumbaugh entered an order of

default and an order modifying child support. Connelly was ordered to pay $750 child support and $320 for day care expenses.

Connelly moved to vacate the default judgement and sought terms of $1500. On October 9, 1991, commissioner Alumbaugh granted the motion to vacate on the grounds that service of the motion was improper, a response and answer to the petition had been filed, and the matter was pending before the superior court on a motion for revision of a prior order. The commissioner did not impose terms against Sharp. Sharp's motion for reconsideration was denied on November 1, 1991.

Sharp moved for revision of the commissioner's order. On January 15, 1992, Pro Tem Judge McLeod deneid Sharp's motion for revision. The court found that the order vacating the default was proper. The court also found that Sharp made false and misleading statements in obtaining the default judgement and ordered Sharp to pay $1000 terms. Sharp appeals this order.

On November 12, 1991, Connelly filed an amended response to the modification petition requesting a reduction of his child support obligation to $219.50 per month. The document refers to "amended financial information", but none appears in the record. On Novembe 13, 1991, Connellynoted the modification petition as ready for trial and acquired a trial date. Sharp responded with a motion

for a continuance, asserting that the case was not ready for trial because she had not received the required financial information from Connelly. Judge Johnson denied the motion for a continuance.

On February 7, 1992, the modification petition was heard on affidavit before Judge Haley. Sharp's request for a court reporter was denied. The court entered findings and conclusions and an order reducing support to $278, below the guideline amount. Connelly was also awarded the tax deduction for Matthew for 1992and 1993, with the deduction to be alternated every year thereafter. Sharp was barred from filing any petitions for modification for 2 years. Sharp also appeal sthis order.

## DECISION

Sharp first contends that the default judgement was properly entered and should not have been vacated because Connelly failed to timely provide the required financial information and disregarded the notice of default.

CR 55 provides in part:
(a)Entry of Default.
(1) Motion. When a party against whom a judgement for affirmative relief is sough has failed to appear, plead, or otherwise defend as provided by these rules and that fact is

made to appear by motion and affidavit, a motion for a default may be made.

(2)Pleading After Default. Any party may respond to any pleading or otherwise defend at any time before a motion for default and supporting affidavit is filed, whether the party previously has appeared or not. If the party has appeared before the motion is filed, he may respond to the pleading or otherwise defend at any time before the hearing on the motion. If the party has not appeared before the motion is filed he may not respond to the pleading nor otherwise defend without leave of court. Any appearances for any purpose in this action shall be for all purposes under this rule55.

(3)Notice. any party who has appeared in the action for any purpose shall be served with a written notice of motion for default and the supporting afffidavit at least 5 days before the hearing on the motion. Any party who has not appeared before the motion for default and supporting affidavit are filed is not entitlted to a notice of the motion...

Sharp filed her peititon for modification on March 25, 1991. Connelly filed a timely notice of appearance on april 2, 1991, and a response on April 23, 1991. Thus, it is clear from the record that Connelly had filed a notice of appearance and a response, although incomplete, at the time the default judgement was entered on September 23, 1991. Connelly had not "failed to appear, plead or otherwise defend." CR 55 (a) (1). Accordingly, there was

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no basis for entry of a default judgement . See RCW 26.18.220 (3). *(3)*

Moreever, Sharp did not properly serve Connelly or his attorney with the notice of the motion for default. CR 55 (a) (3). The superior court did not err in denying Sharp's motion for revision of the commissioner's decision vacating the default judgement.

Sharp next contends that the court erred in ordering her to pay $1000 terms. Judge McLeod imposed the $1000 terms on the ground that Sharp had made false and misleading statements orally and in writing in procuring the default judgement.

The trial judge's finding that Sharp had made false and misleading statements in procuring the default

*(3)* RCW 26.18.220 (3) provides: "A party's failure to use the mandatory forms or follow the format rules shall not be a reason to dismiss a case, refuse a filing, or strike a pleading. However, the court may require the party to submit a corrected pleading and may impose terms payable to the opposing party or payable to the court, or both."

is supported by the record. The order of default which Sharp presented to Commissioner Alumbaugh includes standard language that Connelly had "failed to appear, plead, or otherwise defend the action." As noted above, this statement was not correct. At the time of the April 1991 default, Connelly had filed a notice of appearance, but he had not filed a response to the petition. By the time of the September default hearing, Connelly had also filed a response to the petition. The trial court did not err in imposing $1000 terms against Sharp. (4)

Finally, Sharp contends that the trial court erred in entering the order modifying Connelly's child

(4)It was withing the trial court's authority to impose terms even though Connelly did not seek revision of the commissioner's decision denying terms. All acts and proceedings of court commissioners are subject to revision by the superior court. RCW 2.24.050. The superior court's review is de novo on the record, and the court has full jurisdiction. State v Charlie, 62 Wn App. 729, 733,815 P.2d 819 (1991); In re B.S.S., 56 Wn. App 169, 171, 782 P.2d 1100 (1989) review denied, 114 Wn.2d 1918 (1990)

support obligation. Although Sharp has not assigned error to each of the challenged findings of fact and conclusions of law, as required by RAP 10.3 (g), it is possible to discern from her brief the issues which she is raising. Sharp

contends that the trial court erred in denying her a continuance of the trial date and forcing her to go to trial without the required financial information; in denying her request for a court reporter; in failing to require Connelly to contribute toward daycare expenses; in awarding Connelly the federal tax exemption for 2 years; in disallowing wage witholding to cover Connelly's support obligation without a further court order; and in determing the amount of child suport.

Most of these challenges cannot be reviewd on appeal because the record is inadequate. The matter was to be heard as a trial by affidavit. The court, however, considered unsworn statements and/or testimony by Sharp, but the proceedings were not reported. some of the findings are based upon Sharp's statemens, of which there is no record. In addition, some of the income documents relied on by the trial court, including Connelly's 19889 adn 1990 tax returns, are not in the record on appeal.

Morever, the financial information before the court was inadequate as to both Sharp and Connelly. In determining the child support obligation of each parent, all income and resources of each parent's household shall be disclosed and considered. RCW 26.19.071 (1). When either or both parents have children from other relationships, the trial court shall consider the total circumstances of both households before deviating from the standard calculation.

RCW 26.19.075 (e) (iv). Sharp had begun some kind of business, although the nature of it is not in the record. Without more information, we cannot determine whether Sharp was entitled to some daycare expenses. In addition, although ther is nothing in the reocrd to support Sharp's contention that Connelly was not actually separated from his wife, nothing in the record indicates that Connelly was living in a separate household or incurring separate living expenses.

The trial court adopted work sheets and entered findngs of fact and conclusions of law, as required. But due to the problems set forth above, particulary the inadequate record, it is impossible for the court to properly review the trial court's decision. Accordingly, we must reverse theorder of child support and remand for a new hearing. On remand, both parties shall timely produce all information required by the current statutes and guidelines, including complete affidavits, work sheets, pay stubs and income tax returns. All evidence and documents considered by the trial court must be included in the record, in order to avoid the problems encountered in this appeal in the even of future request for appellate review.

Both Connelly and Sharp seek attorney fees on appeal. Neither party is entitled to attorney fees on appeal.

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The order vacating the default judgement and imposing terms against Sharp is affirmed. The final order modifying child support is reversed and remanded for rehearing.

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SHARP V CONNELLY

30150-1

Pg 15-17

" I would suggest Ms. Sharp, if you wish to criticize me, please, the next time you do, use my name not someone else's. If you don't know my name, you can't criticize who I am."

In Dlouhy v Dlouhy (55 Wn 2d. (1960)

The court found that "where one is given notice of hearing on a motion affecting substantial rights, he may either submit himself to the court's jurisdiction and attempt to protect his rights, or he may not appear and allow their determination in absentia. The choice is his."

Ms. Sharp does not contend that the courts would prefer to have cases heard on the merits. However, in the instant case, Ms. Sharp contends that Mr. Connelly, appearing through his attorney Michael Smith, attempted to delay and deny Ms. Sharp's right to obtain adequate child support and daycare for her child.

It is significant to note in the verbatim proceedings before Judge Pro Tem Murray McLeod, Page 18 line 7-16 Ms. Sharp states:

Appendix G (1)

"One of the attorneys mentioned to me that one of the reasons that the Court does not like defaults is because they don't like to punish the person on the other side. Well, Mr. Connelly's father is an attorney, Mr. Connelly has a lot of knowledge of the legal profession and they know exactly what they are doing, Your Honor. And if there's harrassment, it's harrassment of the mother of the child who is only trying to do the best by the child."

The motion for revision of commissioner's ruling denying reconsideration of the default should have been upheld due to the continued willful disregard of orderly judicial process and failure to appear and defend at the default hearing on September 23, 1991.

NO. 2 Does Judge Don Haley err in entering an order punitive to a custodial mother when statutorily required financial information had not been provided to Ms. Sharp within 20 days of service of child support?

On January 23, 1992, Ms. Sharp requested a continuance of trial date (CP 62). This request was based on the failure of Mr. Connelly to provide required financial information and notice to the court of Ms. Sharp's appeal. The request for continuance was denied. The order from Judge Don Haley (CP 73) is an extreme example of abuse of discretion and further supports the upholding of the motion for revision.

Appendix G(2)

This order denied Ms. Sharp daycare. It denied Ms. Sharp the right to appear before the court. It states that the Respondent provided the court with copies of his 1989 and 1990 income tax returns and yet these are nowhere entered into the court file. It lowered Ms. Sharp's support to an amount which would have placed Mr. Connelly's income at around $1000.00 per month according to the child support schedule. It awarded federal income tax exemption to a father who has never seen his child and takes no part in his child's life. It disallowed Ms. Sharp wage withholding without further order of the court. It states that Respondents liability for child support is now at 45% ofhis net income without any substantiation.

It is significant for the court to note that there was a request for a court reporter which was denied by Judge Don Haley.

That Ms. Sharp was forced into a trial without financial information from Mr. Connelly-February 2, 1992 (CP 73) ten months after the filing of the child support modification denies the purpose and point of child support; child support is to provide the child the approximate standard of living which would be achieved were the noncustodial parent a physically present parent. Obtaining child support simply cannot become a legal gauntlet which a mother must pass through in order to provide for her child. The order signed by Judge Haley

Appendix G(3)

denies any sense of fair play and justice and is punitive to Ms. Sharp and her child, Matthew and denies any sense of "best interests of the child."

CONCLUSION

Ms. Sharp notes to the court that these proceedings have been protracted and hostile. Ms. Sharp does not disagree that the courts prefer to have cases settled on their merits, and there is numerous case law in which defaults have been vacated and that vacation upheld in appellate court. However, the court system is designed so that, in child support modification cases, parties voluntarily exchange financial information, according to required statue, and the case is settled in a timely manner, in the best interests of the child.

Ms. Sharp cites the following:

RCW 26.18.010
The legislature finds that there is an urgent need for vigorous enforcement of child support obligations, and that stronger and more efficient statutory remedies need to be established to supplement and complement the remedies provided in chapters 26.09, 26.21, 26.26, 74.20, and 74.20 A RCW.

and

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RCW 28.010 (3)
This chapter shall be liberally construed to assure that all dependent children are adequately supported.

In the instant case of Sharp v Connelly, Mr. Connelly willfully allowed his attorney to disregard the exchange of financial information documented by W'2s, tax returns and other supporting financial information and required to be provided to Ms. Sharp within twenty days of service of the child support modificaiton filed in King County on march 3, 1991. When this information was not forthcoming. Ms. Sharp appropriately moved for default always with proper service to Mr. Smith. Twice. Mr. Connelly, appearing through his attorney, Michael Smith, has obstructed this case being settled on the merits and defaulted after notice of the motion, twice. Ms. sharp contends that the motion for reconsideration of default should have been upheld in order to serve the best interests of the child, Matthew Connelly Sharp.

Appendix G (5)

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

IN RE: THE MARRIAGE OF

| | |
|---|---|
| RHONDA SHARP | CAUSE NO. |
| PETITIONER | 91-3-07409-1 |

AND

GREGORY SHARP
RESPONDENT

---

Transcript of the Proceedings Heard Before:
Honorable LeROY McCullough

---

March 12, 1992
King County Courthouse
Seattle, Washington

Appearances:
Rhonda Sharp, PRO SE
Attorney for the Respondent, Thomas Chillquist, ESQ.

DOLORES A. RAWLINS, RPR
OFFICIAL COURT REPORTER

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in custody.

THE COURT; Ms. Sharp, please.

MR. CHILLQUIST; If I can finish, your Honor.

THE COURT; Yes.

MR. CHILLQUIST; I will give Ms. Sharp the opportunity to give her version of the story, if she wishes, after I am done.

It is my client's position that there was a physical change in custody on December 20th of 1991. On January 31, 1992, my client filed a petition to modify the parenting plan in Pierce County, due to the fact that the son, my client resides in Pierce County. There was a hearing on February 15th of 1992 in Pierce County before Court Commissioner Boile.

After hearing the evidence, he ruled that Pierce County was the proper venue, that my client had met the statutory threshold determination regarding changes of the parnting plan and devised a temporary parenting plan and ordered that there would be a guardian ad litem appointed. The guardian ad litem has been appointed. Her name is Marilyn Brown-Singer. She is in the process of doing an investigation.

On three days after that particular hearing, on February 18th, the petitioner filed a motion for Contempt of Court in King County, dealing with the January child support and also, I am paraphrase this, she can correct me if I don't say

it right. She put in a motion to return the chld to her, the custodial parent. Both motions were denied by Court commissioner Carlos Velatequi relying on the order in Pierce county Superior Court that had been signed previously by Court Commissioner Paul Boile. The petitioner subsequently filed a notice of appeal in Division I, here in Seattle, dealing directly with the denial of the contempt of Court and the denial of the request, or motion to return the child that had been signed by Court Commissioner Velatequi.

An emergency motion was held last Friday before one of the Court Commissioners, his name escapes me, in Seattle here in the Court of appeals. Those two motions requested the change of venue to, I assume, reinstate or proceed with the Contempt of Court were denied by that particular court Commissioner.

Do I have a copy of that order?

THE COURT: I am waiting for th etie in. How does that deal with the issue before the Court?

Mr. CHILLQUIST; What I am concerned about is if there is going to be a new trial, I see a potential for one court already assuming jurisdiction and there will be jurisdiction in King County. I bring it up as a procedural thing.

I don't know what the Court was going to rule. I though that it was important for the Court to be made aware of that fact.

THE COURT; If I do grant some relief, it would cover the period from August through the time of any other subsequent court action, which would supresede itself. What happened afterwards, at this point I don't really se how I would have to go into any detail on that.

In fairness, Mrs. Sharp, anything quickly that you want to say about that? You understand the issue.

MS. SHARP; Yes, your Honor. I have been forced into hiring an attorney. I asked my exhusband, I did have a temprer problem that day, as you know. It has been a long period of seven years of harrassment and falsified financial information. As I noted to this Court previously, I signed my divorce papers without an attorney based on an agreement between Mr. Sharp and myself.

I believe the Court has to begin recognizing the fiduciary relationship as a parent. It is a totally different relationship between businesses. When two people have children between them, that fiduciary relationship must be considered critical to the well being of the children and parties involved.

THE COURT; What I am asking you--

MS. SHARP: My point is, your Honor, yes, I did have a fit of temper. I did put my son with his father for a short period of time. I verbally requested that he be returned. There is a significant question regarding venue given that Greg filed in 30 days in a retaliatory motion afte rI previously filed in contempt of court to force him to return my son. The attorney tells me down in Tacoma, tells me that he will

be doing a motion to dismiss. This is still a very relevant proceeding to my son's well being I intend that it be so.

THE COURT: Anything else about the figure that the Court should be using, then, which would be perspective from August until such time as another Court would have secured jurisdiction over this particular set of circumstance?

MS. SHARP: Your Honor, I would once again submit to you that the higher number of 80,000 dollars a year be used, simply because the two years previously show that Mr. Sharp's habit is to provide falsified information and he is a salesman. He can run on all he wants, but this is the number that was provided to the federal government. And to see that number drop in 1990, which just happens to coincide with the year that the company became Sharp Steel, I think that it is just too coincidental.

It would seem to me that unless he provides better information that shows that he has absolutely no interest

SUPERIOR COURT OF WASHINGTON, COUNTY OF KING

Rhonda W. Sharp, NO. 91-3-047409-1

Petitioner ORDER ON FAMILY LAW MOTION

v

Greg Sharp,

Respondent,

The above-entitled court, having heard a motion by the Petitioner, regarding a motion and Order to Show Cause re: Contempt of Court and the Court having reviewd the file and declarations of the parties and the oral argument of Rhonda W. Sharp (Pro Se) and Thomas A. Chillquist (appearing for the Respondent)-hereby makes the follwing findings: (1) tha t the Petitioner did not (sic) timely notice of the hearing on today's date (2) that the Respondent should be awarded attorney fees of $200.00.

It is hereby ordered that the hearing set today is hereby struck(sic)prejudice and the Petitioner is ordered to pay the Respondent Greg Sharp, the sum of $200.00 for attorney fees incurred to defend this motion.

Dated February 5, 1992.

S

Ct. Commissioner Carlos Y. Velategui

Presented by:

S

Thomas A. Chillquist

Attorney for Respondent, WSBA#14952

S

Rhonda W. Sharp

Appendix I

SUPERIOR COURT OF WASHINGTON, COUNTY OF KING

Rhonda W. Sharp,
Petitioner
v
Greg Sharp,
Respondent.

NO. 91-3-047409-1
ORDER ON FAMILY LAW MOTION

The above-entitled court, having heard a motion by the Petitioner, regarding contempt of court re: child support for the month of January, 1992, and the Respondents motion for terms or attorney fees and the court having heard the oral argument of the Petitioner Pro Se and the Respondents attorney, Thomas A. Chillquist, and a review of the file

It is hereby ordered that the motions by each party is denied based on the ongoing custody jurisdiction by Pierce County Superior Court Re: the Petition for Modification and reserves the issue of child support for the month of January, 1992 to the Pierce county Superior Court Proceedings.

Dated February 18, 1992.

S

Ct. Commissioner Carlos Y. Velategui

Presented by:

S

Thomas A Chillquist
Attorney for Respondent
WSBA#14952

Present but refuses to sign and left the court room

Rhonda W. Sharp

Appendix J

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF PIERCE

In Re the Marriage of: NO. 84-3-04740-1

Rhonda W. Sharp,
Petitioner

Motion/Declaration
ExParte Restraining Order
Order to Show Cause

and

Greg Sharp,
Respondent

(Clerks Action Required)

---

I. MOTION

Based upon the declaration below, I move the court for a temporary restraining order without written or oral notice to my spouse or to my spouse's lawyer.

1.1 I request that the court RESTRAIN:

() each party from transferring, removing, encumbering, concealing or in any way disposing of any property except in the ususal course of business or for the necessities of life and requiring each party to notify the other of any extraordinary expenditures made after the order is issued.

(X) each party from molesting or disturbing the peac of the other party or of any child.

() from entering the residence at

(X) each party from entering the home of the othe party

Appendix K (1)

()each party from assigning, transferring, borrowing, lapsing, surrendering or changing entitlement of any insurance policies of either or both parties whether medical, health, life or auto insurance.
(X) other: the Petitioner, Rhonda W. Sharp, from removing the parties child, Jeff Sharp, DOB 2-19-81, from the Respondent's home, or the child's current grade school, pending a hearing on this matter.

1.2 SURRENDER OF DEADLY WEAPONS
(X) Does not apply.
() I also request that the court requrie my spouse to surrender any deadly weapon in his or her immediate possession or control or subject to his or her immediate possession or control to the sheriff of the county having jurisdiction of this proceeding, to his or her lawyer or to a person designated by the court. Clear and convincing reasons for this request are set forth in the declaration below.

1.3 I also request that the other party be required to appear and show cause why the restraints requested in this motion should not be continued in full force and effect pending final determination of this action.

1.4 This motion is based on the declaration which follows.

1.5 Other:

Appendix K(2)

Dated this 30th day of January, 1992.

Thomas A. Chillquist
Attorney for Respondent
WSBA#14952

II. DECLARATION

It is necessary that the court issue a temporary restraining order granting the relief requested above for the reasons set forth below.

2.1 An ex parte restraining order is being requested to prevent the following injury (define the injury): the emotional trauma that our son would go through if the Petitioner was allowed to remove him from my care prior to a hearing on the matter.

2.2 This injury may be irreparable because: of the very nature of the possible injujry ie. that interference with the current status quo may cause serious emotional trauma to our ten year old child.

2.3 A temporary restraing order should be granted without written or oral notice to my spouse or my spouse's lawyer because immediate and irreparable injury, loss, or damage will result before my spouse or my spouse's lawyer can be heard in opposition. The following efforts have been made to give my spouse or my spouse's lawyer notice:

(X) I have not attempted to give notice to my spouse or my apouse's lawyer because: by giving the Petitioner advance notice will result in an attempt to take our child from my

family home or his current grade school resulting in emotional trauma to our son.

() I have attempted to give notice to my spouse or may spouse's lawyer as follows:

Reasons supporting the claim that notice should not be required are as follows:I believe that once the Petitioner is aware of the filing of a Petition to Modify the Parenting Plan she will try to tak my son out of my family hom or his current grade school, without my ocnsent. Additionally the Petitioner has acquiesced to the status quo.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed at Kent, Washington, this 30th day of January, 1992

S

Greg Sharp
Respondent

III. ORDER

3.1 This order is being issued to prevent the following injury (define the injury)" the emotional trauma that the parties son may experience if the Petitioner was not prohibited from removing him from the current care of the Respondent prior to a hearing on the matter.

Appendix K (4)

3.2 This injury may be irreparable because: the very nature of the possible injury is such that interference with the current status quo may cause serious emotinal trauma to the parties ten year old child.

3.3 This order is being granted without notice because: of the high possibility that once the Petitioner is aware of the filing of a Petition to Modify the Parenting Plan she may try to take the paties son out of the Respondent's family home without the Respondent's consent. And the fact that the Petitioner has acquiesced to the status quo.

3.4 It is ORDERED that:

(X) Each party is restrained from molesting or distubing the peace of the othe party or of any child.*

(X)Each party is restrained from entering the home of the other party.*

*VIOLATION OF THE ABOVE PROVISIONS OF THIS ORDER WITH ACTUAL NOTICE OF THEIR TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.09 RCW AND WILL SUBJECT THE VIOLATOR TO ARREST. RCW 26.09.060 (5).

() Each party is restrained from transferring, removing, encumbering, concealing or in any way disposing of any property except in the usual course of business or for the necessitiers of life and requiring each party to notify the other of any extraordinary expenditures made after the order is issued.

(X) Each party is restrained from removing any of the children from the State of Washington.

Appendix K (5)

() Each party is restrained from assigning, transferring, borrowing, lapsing, surendering or changin entitlement of any insurance policies of either or both parties whether medical, health, life or auto insurance.

(X) Other: the Petitioenr, Rhonda W. Sharp, is restrained from removing the parties child, Jeff Sharp, DOB 2-19-81, from the Respondent's home, located at 14020 224th St. E., Graham, WA, or the child's current school, Graham Elementary, located in the Bethel School District No. 403, pending a hearing on this matter set for the time and date indicated in paragraph 2.6.

Mother may exercise supervised visitaiton pending show cause.

3.5 SURRENDER OF DEADLY WEAPONS

(X) Does not apply.

() It is ordered that surrender any deadly weapon in his or her immediate possession or control or subject to his or her imediate possession or control to:

() the King County sheriff.

() (other)

The court finds on the basis of the declaration above or the other evidence presented that irreparable injury could result if an order is not issued until the time for response has elapsed. (See RCW 26.09.060 (2)(b).

3.6 SHOW CAUSE ORDER.

Appendix K (6)

It is ordered that Rhonda W. Sharp appear and show cause if any, why the above restraints should not be continued in full force and effect pending final determination of this action. A hearing has been set before Pierce County Superior Court-Family Law Division for the following date, time and place:

Date: Febuary 13, 1992.
Time: 9:30a.m.
Place: Pierce County Superior Court, County City Building, 930 Tacoma Ave. So., Tacoma, WA 98402
Room/Department: 100 or 117 (as assigned)

3.7 This order shall be filed forthwith in the clerk's office and enterd of record.
3.8 The clerk of the court shall forward a copy of this order, on or before the next judicial day, to Pierce and King County Police.
3.9 Pierce and King County police shall forthwith enter this order into any computer based criminal intelligence system available in this state used by law enforcement agencies to list outstanding warrants.
3.10 This order shall expire on the heairng date set in paragraph 3.6 above or 14 days from the date of issuance unless otherwise extended by the court.
3.11 Other:

Dated this 31st day of January, 1991 at 2:45pm.

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Time

S

~~Judge~~/Court Commissioner Pro Tem

Presented by:

S

Thomas A. Chillquist
Attorney for Respondent
WSBA#14952

Appendix K (8)

WPF DR 04.0250 (8/91)

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COURTY OF PIERCE

In Re the Marriage of

Rhonda W. Sharp,
Petitioner

NO. 84-3-04740-1
Temporary Order
(TMO)

and

Greg Sharp,
Respondent

(X) Clerks Action Required
See Paragraph 2.10

---

~~I. JUDGEMENT SUMMARY~~

A. Judgement Creditor.

B. Judgement Debtor.

C. Principal judgement amount (back support): $ from to

D. Interest to date of Judgement.....$

E. Attorney's fees.....$

F. Costs.....$

G. Other recovery amount.....$

H. Principal judgement shall bear interest at % per annum.

I. Attorney's fees, costs and other recovery amounts shall bear interest at % per annum

J. Attorney for Judgement Creditor

K. ~~Attorney for Judgement Debtor~~

Appendix L(1)

II. ORDER

It is ORDERED that:

1.1 The court having determined that the respondent has met the statutory threshold determination with regards to a change in the parenting plan, it is ordered that this case proceed to trial.

2.1 Restraining order.

( ) Does not apply.

( X) Each party is restrained from assaulting, harrassing, molesting or distrurbing the peace of the other party.*

(X) Each party is restrained from entering the home of the other party.*

VIOLATION OF THE ABOVE PROVISIONS OF THIS ORDER WITH ACTUAL NOTICE OF THEIR TERMS IS A CRIMINAL OFFENSE UNDER CHAPTYER 26.09 RCW, and will subject the violator to arrest. RCW 26.09.060

( ) Each party is restrained from assigning, transferring, borrowing, lapsing, surrendering, or changing entitlements of any insurance policy of either party whether medical, health, life or auto insurance.

( ) Each party is restrained from transferring, removing, encumbering, concealing, or in any way disposing of any assets including retirement, profit sharing, or similar accounts except in the usual order of business or for the necessities of life;

(X) Each party is restrained from molesting or disturbing the peace of the other by telephone or otherwise at his or her employment.

Appendix L(2)

( ) Each party shall be personally responsible for any indebtedness incurred by that person whether by credit card or loan, security interest or mortgage, commencing with the date of this order.

(X) Each party is restrained from removing the child from the jurisdiction (State of Washington) of this court, without further court order except for vacation or visitation.

(X)Other: Each party shall refrain from discussing any aspect of this case with the parties son, Jeff Sharp.

2.2 SURRENDER OF DEADLY WEAPONS.

(X) Does not apply

( ) It is ordered that surrender any deadly weapon in his or her immediate possession or control or subject to his or her immediate possession or control to :

( )the King County sheriff.

( )

2.3 PARENTING PLAN.

( )Does not apply

(X) The paties shall complay with the ~~attached~~ following Temporary Parenting Plan for the parties son Jeff Sharp signed by the court. The attached Temporary Parenting Plan ~~signed by the court is approved and incorporated as part of this order~~. The respondent shall remain the primary residential parent and the Petitioner shall have residential time of every 2nd and 4th weekend of the

Appendix h(3)

month starting 6pm Friday night to 6 pm Sunday. The Petitioner shall be responsible for transportation.

2.4 CHILD SUPPORT

( ) Does not apply

(X) ~~Child support shall be paid in accordance with the attache dorder of child support, signed by the court, which is incorporated as part of this temporary orde~~r. The court reserves the issue of child support pending further order of the court.

2. 5 SPOUNSAL MAINTENANCE.

(X) Does no apply.

( ) The () husband () wife shall pay the other $ per month maintenance.

Starting Date:

Day(s) opf the month payment is due:

Payments shall be made to:

() the Washington State support registry (if child support is ordered).

() directly to the other spouse.

() theclerk of this court as trustee for remittance to the other spouse ( if there are no dependent children).

2.6 APOINTMENT OF CHILD'S GAL/ INVESTIGATOR/LAWYER

() Does not apply.

() The motion for the appointment of a () lawyer

Appendix L(4)

()investigator (0guardian ad litem for the child(ren) is denied.

(X) The motion for the appointment of a () lawyer () investigator ()attorney guardian ad litem for the child (ren) is granted. ~~A separate order setting forth the duties of this person has been or will be entered by the courts~~. The Respondent shall be intially responsible for the GAL retainer, a final determination of liability for the FAK fees is reserved for trial. The GAK shall undertake an investigation and file a report with the court. Upon completion of the report a review hearing shall be set.

2.7 REAL PROPERTY

(X) Does not apply.

()The family home located at shall be occupied by the () husband () wife.

()Use of other rea. property shall be as follows:

2.8 Personal Property.

The use of peracnl property of the parties shall be as follows: N/A

2.9 ATTORNEY'S FEES, OTHER PROFESSIONAL FEES AND COSTS.

(X) Does not apply

Appendix L(5)

() The () husband () wife is awarded $ temporary attorney's fees, $ for other professiona fees and $ costs, payable by the other party.

2.10 CLERK'S ACTIONS. LAW ENFORCEMENT ACTION.

() Does not apply

(X) This order shall be filed forthwith in the clerk's office and entered of record.

The clerk of the court shall forward a copy of this order on or befoer the next judicial day, to the King and Pierce County Police. The King and Pierce County Police shall forthwith enter this order into any computer-based criminal intelligence system available in this stated used by law enforcement agencies to list outstanding warrants.

2.11 OTHER: The Office of Support Enforcement shall refrain from taking any collection actions on Greg Sharp with regards to back child support pending further order.

THIS IS A TEMPORARY ORDER PENDING FURTHER ORDER OF THE COURT, REQUIRING COMPLIANCE WITH THE RESTRAINING ORDERS AND PARAGRAPHS ABOVE.

Dated: February 13, 1992

S _____

Judge/ Court Commissioner

Appendix h (6)

Presented by

S _____

Thomas A Chillquist
Attorney for Respondent
WSBA #14952
Judge/ Court Commissioner

Approved for entry

---

Rhonda W. Sharp,
Pro Se, Petitioner

Appendix H(7)

May 4, 1994
852-6800 FAX
854-8116 Phone

Dear Mr. Chillquist,

My son Jeff Sharp has stated to me that he refuses to return to his fathers. We informed Greg By phone last evening and Jeff spoke directly to Greg informing him of his insistence on living with myself and his brother.

We will be in ex parte today at 11:30 am in King County. Should you wish to appear please do so. I am also calling you this morning at 9:00 and am faxing you a copy of my declaration.

Rhonda W. Sharp
889-2033
6614 130th Ave NE G101
Kirkland, WA 98033

Appendix M(1)

8-27-93
Faxed to Chillquist

To Tom Chillquist:

Today I picked Jeff up at 2:00 pm and found him with a 2 day old burn on his right calf. It was 8 inches by two inches. A second spot above it was double the size of a silver dollar. Please tell your client Greg Sharp to provide proper medical attention. A burn this size which has blistered and is missing part of the skin is a source of infection. The Doctor at Evergreen Hospital, where i immediately took Jeff, said if I hadn't brought him in it would have become much more serious and severely scarred Jeff. Please be sure Greg takes Jeff to the doctor for a check-up Monday 8-30-93

Rhonda W. Sharp

Appendix M (2)

Appendix M(3)

# STUDENT PROGRESS REPORT

SCHOOL DISTRICT: BETHEL SCHOOL DIST
PERIOD ENDING: 04/22/94
SCHOOL: FRONTIER JUNIOR HIGH
DAYS: 27

THE FOLLOWING IS A PROGRESS REPORT OF YOUR STUDENT'S PERFORMANCE FOR THE THIRD QUARTER. IT DOES NOT BECOME A PART OF YOUR CHILD'S PERMANENT RECORD. IF YOU HAVE QUESTIONS OR CONCERNS PLEASE CALL COUNSELORS OR TEACHERS @ 846-8544.

| STUDENT NO | STUDENT NAME | HOME ROOM OR STUDENT ADVISOR | PARENT OR GUARDIAN |
|---|---|---|---|
| 1655 | SHARP, JEFFREY D | 7 GYM L BEITZ | MR GREG SHARP |

| COURSE/TEACHER | PD | SEMESTER | CREDIT | GRADE | TEACHER'S COMMENTS |
|---|---|---|---|---|---|
| PED701 21<br>PHYS ED 7<br>L BEITZ | 1 | F | | | POOR WORKSLIP SENT AT MIDTERM, BUT NOT RETURNED.<br>POOR ATTENDANCE HAS NEGATIVELY AFFECTED CLASS WORK.<br>STUDENT DOES NOT MAKE UP WORK WHEN ABSENT. |
| MTH502 12<br>MATH PLUS<br>S BELL | 2 | F | | | FAILED TO MAKE UP OR COMPLETE ASSIGNMENTS. |
| SCI700 53<br>EARTH SCIENCE 7<br>K KINNAIRD | 3 | F | | | POOR ATTENDANCE HAS NEGATIVELY AFFECTED CLASS WORK. |
| ENG669 94<br>HUMANITIES 7<br>S LING | 4 | F | | | POOR ATTENDANCE HAS NEGATIVELY AFFECTED CLASS WORK. |
| EXP707 4<br>EXP.ART<br>O BERTOLINO | 6 | P | | | WORK HABITS NEED TO BE IMPROVED. |
| EXP708 4<br>EXP.STUDYSKILLS<br>L NIXON | 6 | | | | |
| EXP709 4<br>EXP.MUSIC<br>G GUENTHER | 6 | | | | |

** 1ST QTR GPA = 0.000 BASED ON 2.50 CREDITS ATTEMPTED

# THE WASHINGTON STATE TASK FORCE ON GENDER AND JUSTICE IN THE COURTS EXECUTIVE SUMMARY

The report of the Washington State Task Force on Gender and Justice in the Courts is the culmination of 20 months of study undertaken at the directin of the Washington State Legislature and under the auspices of the Washington State Supreme Court. The 1987 Legislature mandated that measures be intiatd to prevent gender and minority bias in the courts. Such measures were to include a study of the status of women and minorities as litigants, attorneys, judges, and court employees; recommendations for implementing reforms; and attitude awareness training for judges and legal professionals.

The Washington State Suprme Court established two task forces, the Gender and Justice and the Minority and Justice, to review the court system for bias. This summary presents the Gender and Justice Task Force's assessment of the extend and consequences of gender bias in the Washington State Courts together with its recommendations for reforms.

## WHAT IS GENDER BIAS IN THE COURTS?

Bias is any action or attitude that interferes with impartial judgement. Gender bias exists when decisions are made or

actions are taken based on preconceived notions about the nature, roles and abilities of men and women rather than upon evaluation of each individual situation. Gender bias also is evident in society's perspection of the value of women's and men's work, and the myths and misconceptions about the social and economic realities of women's and men's lives. Gender bias can be reflected individual actions as well as in cultural traditions and institutional practices.

Examples of gender bias in the courts include the attitude that domestic violence is a family mattter, custody decisions that assume all mothers are better child care givers than fathers, and the belief that a female witness is less credible than a male witness. Gender

CHILD SUPPORT

Inadequate child suport orders and lack of enforcement of those orders reinforce the cycle of poverty for women and children after divorce. Although complete data were not available in all records reviewed during the dissolution case study, indications are that the average monthly child support award in Washington, $198, is below the national average $218.

Enforcement of child support orders has been a continuing problem. Ninety-four precen t of the lawyers

survey respondents answered that judges never or only occasionally jail respondents for failure to pay child support.

An issue of particular concern is the fact that mothers barter child support in order to avoid child custody disputes. More than half of the lawyers said they had represented mothers who agreed to less child support than the father's income called for in exchange for the father's agreement not to contest custody. Almost half of the judges responded that they were aware of situations in which mothers conceded more than half the property to avoid a custody dispute.

Washington recently instituted new policies regarding child support and enforcement following reports of the Child Support Guidelines Commission and the Executive Task Force on Support Enforcement. The effectiveness of these changes and the impact on women and children should be evaluated in the future.

LEGAL ASSISTANCE

Testimony indicated that affordable legal assistance is not available for men or women in family law matters. Speakers throughout the state testified that it was their belief that women, in particular, were being denied equal access to the legal system because they lacked money to pay attorneys' fees. Other testimony pointed to a need for developing alternative methods for resolving martial disputes.

Appendix N (3)